PRIZE ESSAY.

"Why Tennessee Needs A New Constitution."

— BY —

RAYMOND E. MANOGUE,

CLASS, '97.

Student of the Christian Brothers' College,

Memphis, Tennessee.

PRIZE OF ONE HUNDRED DOLLARS

— OFFERED BY —

HON. WM. H. CARROLL,

Of Memphis, Tennessee.

WELL WORTH PERUSAL.

The paper on "The Needs of a New Constitution for Tennessee" written by Mr. Raymond Manogue, of the Christian Brothers' school, for which he was awarded the prize of $100 offered by Col. Wm. H. Carroll, is presentation of the case that is well worth perusing. While the writer is only 18 years of age, he betrays none of the limitations of adolescence in handling this momentous question. His directness of statement and lack of ornamentation are in happy contrast with the usual sophomorical deliverances of young men, and his style is one that older writers might well copy. Mr. Manogue evinces a familiarity with the present constitution and a lively sense of its defects such as few men of mature years can boast, and our law-makers who are to assemble in Nashville on January 4 would do well to carefully con the facts and arguments presented. That Tennessee is sadly behind in the race of progress is well and widely known, and the reason of it is to be found in the organic laws of the State, which should be overhauled and modernized,—*Editor, Commercial-Appeal.*

WILLS & CRUMPTON PRINTERS, MEMPHIS.

JK5225
1896
.M3

CORRESPONDENCE.

MEMPHIS, TENN., October 10, 1896.

GEN. GEO. W. GORDON, BROTHER MAURELIAN AND MR. BOLTON SMITH, CITY:

DEAR SIRS—Enclosed please find a check for one hundred dollars, to be given on the ensuing Christmas to the Tennessee student who shall write an article best setting forth the reasons why Tennessee needs a new Constitution.

If you will take charge of this matter and bring it to the attention of the various schools and colleges of the State, and be the final judges of the merit of the compositions to be submitted, you will place me under lasting obligations

Competition to be open to all students, whether male or female, in the State of Tennessee, who have not yet arrived at the age of twenty-one years.

Yours truly, WM. H. CARROLL.

THE CONDITIONS.

MEMPHIS, TENN., October 10, 1896.

MR. WM. H. CARROLL, CITY:

DEAR SIR—We beg to acknowledge receipt of your check for one hundred dollars, and, with a sense of its importance, accept the trust that you tender us.

The plan that you have adopted should be fruitful in good results. A study of the old Constitution by the youth of our State is indispensable to the adoption of a new Constitution that will advance the material interest of our people.

We agree with you that competition should be open to all students in the State under the age of twenty-one years.

We now bring the matter to their attention through the principals and heads of the schools and colleges of the State, and suggest that the competition be conducted subject to the following rules:

First—The Union & Planters Bank of this city has consented to serve as an intermediary in this matter, and all compositions should be in its hands not later than December 20, 1896. Those enclosed in an envelope bearing the stamp of the Memphis postoffice must be handed to the bank not later than 3 o'clock P. M. on Tuesday, December 22.

Second—The real name of the author shall not appear upon the composition, but the author shall be known by a nom de plume or fictitious name, so that the judges in awarding the prize will have no means of knowing to whom they are awarding it.

Third—This nom de plume or fictitious name shall appear at the top of the first page of the composition.

Fourth—Each composition shall be accompanied by a certificate written on a separate sheet of paper, substantially in the following form:

Nom De Plume: .....

..... *Tenn.*, ...1896.

THIS IS TO CERTIFY, *That the essay which accompanies this certificate was written by* .....*without the assistance of anyone.*

Said.....*is a scholar in*.....*School, of the age of*.....*years.* .....*Author (real name).*

.....*Principal.* *Address*.....*Tenn.*

Address.....*Tenn.*

Fifth—The Union & Planters Bank of this city will receive these compositions, retain the certificates, and turn over to us the compositions.

Sixth—Compositions shall be written only on one side of the paper, either in type-writer or in a clear and legible hand, and shall be in the English language, and not to exceed two thousand words in length. Very truly yours.

GEO. W. GORDON,
BROTHER MAURELIAN,
BOLTON SMITH.

MEMPHIS, TENN., December 24, 1896.

MR. SAM P. READ, Cashier Union & Planters Bank, City:

DEAR SIR—We, the undersigned committee selected by Col. W. H. Carroll to award the prize of one hundred dollars, offered by him for the Tennessee student who would prepare the best paper upon "The Needs of a New Constitution for Tennessee," beg leave to say that we have carefully examined all of the essays submitted to us by the contestants (all of whom are to us unknown), and that we unanimously award the prize to the writer of the paper bearing the nom de plume "Vigilant."

Very truly yours, GEO. W. GORDON,
BROTHER MAURELIAN,
BOLTON SMITH.

BY TRANSFER

WHY TENNESSEE NEEDS A NEW CONSTITUTION.

OUR Federal constitution opens, as it were, an avenue through which the gleamings of centuries may be read. It is the climax of freedom and civilization. This heaven-born freedom of the Federal constitution is brought to our very doors by the State constitution.

When we behold Tennessee, a pioneer settlement, directly influenced by the revolutionary war, we cannot but expect to find many flaws in her constitution of 1796. It was, however, entirely conformable to the existing conditions, and, according to Jefferson, "It is the least imperfect and the most republican" of State constitutions.

But times changed, civilization advanced, and, hence, its demands increased. Consequently, a new constitution was drafted and approved by the people in 1834.

Tennessee, at this period, was among the leaders of the Virginia group. She continued to advance, when a barrier loomed up that changed the foundation of her whole system. The industrial, social, and commercial relations were completely overthrown and had to be reconstructed after the civil war. The convention of 1870 was, therefore, called.

The solons who were called upon to revise the constitution were seemingly inspired. They wisely abstained from wholesale changes, because, said they, we are not in a condition to meet the requirements of the times. They acted with greater wisdom than they knew. Men had not yet recovered from their terrible blow,

and prejudices still prevailed. Hence they concluded to do as little revision as possible, leaving that work to be done by men of another generation, who should and would be in perfect accord with the demands of the age and conditions of things.

But never did they dream of the political corruption which to-day passes current as patriotism. Happily the true situation is dawning upon the people. Their duty is clear in the matter, and their patriotism will now exert itself to crush and wipe out forever what may tend to retard the "Old Volunteer State" in its line of advance.

Therefore, as the people must decide their own destiny, we will essay to show the necessity of changes in our present constitution.

I.

No one disputes the right of a State to impose a just tax. It is even essential to its general progress. But we emphatically protest against this section of our constitution (section 28, article 2), because a double, and even a triple tax is implied.

This cripples all business enterprise and is a decided protest against capitalists' investment. A constitutional limitation to the power of the legislature to impose privilege taxes is most urgent. Let this section be more explicitly worded, so as to preclude all ambiguity. Frame it to invite enterprise and to build up new industries. We must put a stop to the ever-ready refrain, "It is unconstitutional." To-day our constitution is a check, and even a menace, to material progress. The legislature is not above corruption; and, therefore, it may regulate the privilege tax, not according to the best interests of the public, but for personal aggrandizement. We all know from history how we indignantly rejected the unjust tax of England. Let us avoid the dangerous rock of tyrannical rulings.

II.

Every efficient government guarantees its citizens peace. This depends upon our judicial system and methods of prosecu-

ting delinquents. Should this limb of the law be weak, either through ineffectual enactments or by default of application consequent upon corruption, then the citizens live in constant fear, and happiness is impossible. Now, it is evident from the constitution that we cannot expect men of learning, executive ability, and manly independence to abdicate their honorable and lucrative positions for the Supreme bench when their services are requited with the beggarly stipend of $3,500 per annum. No office is more onerous than that of the Supreme judgeship. Therefore, to enlist men of eminent abilities and qualities, we must amend the constitution to give them a salary that will render them independent, say from $8,000 to $10,000 per annum. Under our present constitution the clerks and petty justices are much better paid than the principals. A clerk may get from $15,000 to $20,000 a year. This is mocking justice. Look again at the enormous outlay of wasted moneys for witness fees and prosecutions. The State and county pay all costs. Georgia's constitution was wiser. In New York all that is over and above fixed salaries for clerks and other officers becomes a sinking fund. Just think, Hamilton county pays annually $17,229 for witnesses and prosecutions. The State pays nearly $1,300,000. Contrast Georgia's petty $55,000. We unquestionably need a constitutional reform.

III.

Honesty is not compatible with ignorance. However, under our present jury system learning goes for naught. The administration of the law is left to illiteracy and depravity. A man is incompetent as a juror if he reads the papers or forms an opinion of the point in litigation. Exalt ignorance and corruption generally follows. Unscrupulous lawyers pack the juries with unworthy men and justice is defrauded. Again, hundreds are summoned from ten to twenty miles around, which is decidedly irksome to those depending upon their daily wages. Several attempts have been made to remove this flaw from our constitution, but each

time was heard the refrain, "Unconstitutional." With a more honest, explicit system much wrangling, time and expense would be saved.

IV.

We believe in a government by the people and for the people. The system of granting the legislature the appointment of subordinate officers and judges is not productive of good to the people, and it interferes materially with the carrying out of the law. The baneful influence of a political ring needs no demonstrative proof. Its effects are withering to healthy administration. In nearly all States the people elect their minor officers; why should Tennessee remain an exception? Let us be true Americans in every department of our State government. Let us so construct our organic law that the people may elect the judges. and that for a period, say, of ten years. In Pennsylvania, the judge's term is twenty-one years. The wisdom of this law is obvious.

V.

Again, the salary of county judges situated in large cities like Memphis and Nashville should be such as to induce able and experienced lawyers to accept the honor when proffered. Our criminal and circuit judges should have a handsome salary. Thus we insure the honor of the bench.

VI.

Moreover, the Supreme Court should have a permanent seat. Its dignity ought to be maintained. It is not a traveling comedy. The framers of the present constitution were undeniably rustic in their conception. Let us be modern, progressive. We believe its permanent home ought to be in the capital of the State. It would give satisfaction, convenience, comfort, and save useless expense.

VII.

Now we come to the officers who enjoy a princely salary for playing the gentleman. Every house, it is said, should be able

to keep one gentleman. We say the State is in no such condition. Our present fee system is a disgrace. Words could not be too strong in its condemnation. Let us, by abolishing this system, save the thousands that now feed corruption, and follow the example of the federal government. If we must have coal oil inspectors, assessors, trustees, back tax collectors, then let us regulate their salaries. Here much expense could be cut down with the ax of reform.

VIII.

Again, it is inimical to all progress to deny local self-government. No city, according to our constitution, can sell a bond or enlarge its taxable district without the consent of the legislature. Note the words, "consent of the legislature." Do these words imply that the consent could be bought? Let us cast aside the shackles that bind us to such narrow-minded legislation. Let us follow New York and Missouri and our cities will soon be the boast and pride of the South. Now all attempts at municipal advancement are checked by our county system, and Tennessee would do well to establish that of the township. Large cities would be especially benefited.

IX.

It is universally acknowledged and proven by the growth of cities in other States that the right of assessment for local improvement is absolutely indispensable to municipal development. But, by our present system, improvements are practically impossible. In Minnesota, Ohio, New York, and other States all improvements of roads and the like are charged to the adjoining property owners. An attempt to convert a part of Reelfoot Lake basin into a levee and assess the adjoining property was declared unconstitutional. Such a clause checks local improvement.

X.

We now come to an erroneous clause of our constitution, under which all road enactments are effective for the entire State.

Therefore, the roads passing through the suburbs of Memphis are subject to the same laws as the mountain trails in East Tennessee. Such legislation displays much ignorance concerning different existing conditions. We hold that each county should have the power to improve its roads and levy tax for the same. Then we we will have roads suited to the locality at a much less expense.

XI.

Again, the error of uniform legislation is shown by the fence law. In some counties wood is abundant and fences are easily built, while in other woodless counties the expense is simply enormous. Here, again, legislation should be according to existing conditions. But this would be unconstitutional, our usual refrain.

XII.

Unfortunately for Tennessee, no provision for the gubernatorial succession exists, and the way is paved for out-bursts of anarchy. To avoid such dangerous consequences, our constitution should explicitly legislate for the election of a lieutenant-governor by the people. This course is approved by the most progressive States. We add, the secretary of State, treasurer, and comptroller should also be elected by the people. Such an organic law commends itself.

XIII.

Convict goods should be positively prohibited. The State taxes manufacturers for privileges; why, then, allow unhallowed importations? This is putting a premium on criminals and is a protest against honest labor. Protect home industries. If convicts must labor, let them build our country roads.

XIV.

Moreover, under the present constitution the criminal docket is called through once a year, and this is another source of expense. For instance, after April all appeals must wait until the succeeding April, and, as a rule, the appellants being unable

to furnish bond, are detained in jail at a great expense for their board. This expense would be much lightened by calling a hearing three times yearly, and with more satisfaction to the people in the way of speedy trials.

These are some of the most important changes demanded in our State constitution. The State, like the Federal government, should guarantee good administration in its three branches—the executive, judicial, and legislative. When the organic laws are defective, whether actually or by implication, good government is a mockery.

Let the judicial branch be so strong in honesty and integrity that corruption and intimidation will be impossible. In this consists our greatest security. Criminals will then both fear and respect the law, knowing that justice, everywhere, reigns supreme.

Let the legislative body be composed of men of honor and intelligence, and let them be independent of trusts and corporations.

Our organic laws will then have the true ring of that manly independence that marked our ancestors of revolutionary fame and, our State, receiving new life and vigor, will shake off its lethargy, and inaugurate a glorious era of enterprise and material prosperity, and give a fresh impulse all along the line, whether physical, intellectual, or moral. And when old Tennessee shall have donned her new and splendid constitutional robes, then, and then only, will she be entitled to hold high rank among her progressive and distinguished sister States.

LIBRARY OF CONGRESS
0 028 070 878 1